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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.REV.P. 142/2023 & CRL.M.A. 3834/2023**

MAHESH KUMAR Petitioner

Through: Mr. Abid Ibrahim, Adv.
with petitioner in person

versus

STATE OF NCT OF DELHI & ANR. Respondent

Through: Mr. Hitesh Vali, APP for
the State
Mr. Arjun Malik, Adv.
(through VC)

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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06.03.2024

1. The present petition is filed under Section 401 of the Code of Criminal Procedure, 1973 ('CrPC') read with Section 397 and Section 482 of the CrPC challenging the order dated 12.12.2022 (hereafter '**impugned order**'), passed by the learned Family Court, North-East District, Karkardooma Courts, Delhi, in MT No. 484/2021.
2. The learned Family Court, by the impugned order, directed the petitioner to pay *ad-interim* maintenance of ₹6,500/- per month to Respondent No.2 (son of the petitioner from his first wife).
3. The learned Family Court had considered the judgment in the case of ***Urvashi Aggarwal & Ors. v. Inderpaul Aggarwal : 2021:DHC:3190***, where this Court had upheld the order whereby maintenance was granted to a son, who had attained the age of majority, till he completed his graduation and started earning, under Section 125 of the CrPC. This Court, in the said case, had noted that a major son can be granted maintenance if he is not



earning sufficiently so as to maintain himself.

4. The learned Family Court had also considered that the sister of Respondent No.2 had also been awarded a sum of ₹6,500 as maintenance in a separate petition.

5. It is submitted that the petitioner, his wife and son (from his current wife's first marriage) are all HIV positive.

6. It is also submitted that Respondent No.2 has attained the age of majority and is not entitled to receive maintenance under Section 125 of the CrPC as he is earning through home tuitions.

7. On being asked, the learned counsel for the petitioner submits that the petitioner, as on date, earns ₹56,000/- per month.

8. The relationship of the petitioner with Respondent No.2 has not been denied. It is also an admitted fact that the impugned order is only an *ad-interim* order. The application for fixing the interim maintenance is still pending before the learned Family Court.

9. The revision petition under Section 397 of the CrPC is not maintainable in regard to challenge to the *ad-interim* order when the application for fixing interim maintenance is pending before the learned Family Court.

10. In the opinion of this Court, the direction to pay *ad-interim* maintenance of ₹6,500/- per month, even otherwise, is not unreasonable when the petitioner admittedly earns ₹56,000/- per month.

11. This Court, therefore, finds no infirmity in the impugned order passed by the learned Family Court. The petition is, therefore, dismissed.

12. The petitioner is at liberty to take all arguments, including the argument that Respondent No.2 is earning sufficiently through home tuitions, at the time of consideration of the



application for interim maintenance.

MARCH 6, 2024 / ssh

AMIT MAHAJAN, J